

## CIRCUIT COURTS

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$154,986,200	\$146,605,800	\$146,711,400	\$148,038,600	\$148,038,600	-\$6,947,600	- 4.5%

FTE Position Summary						
Fund	2000-01 Base	2002-03 Governor	2002-03 Jt. Finance	2002-03 Legislature	2002-03 Act 16	Act 16 Change Over 2000-01 Base
GPR	511.00	511.00	511.00	511.00	511.00	0.00

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

GPR	- \$3,097,800
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**Governor/Legislature:** Delete \$1,548,900 annually as the net adjustment for the following: (a) full funding of continuing salaries and fringe benefits (-\$1,565,000 annually); and (b) fifth week of vacation as cash (\$16,100 annually).

#### 2. BASE BUDGET REDUCTIONS [LFB Paper 245]

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR	-\$5,382,600	\$1,076,600	-\$4,306,000

**Governor:** Reduce the Court's GPR sum sufficient circuit courts state operations appropriation by \$2,691,300 annually. This amount represents a reduction of 5% of the Court's total GPR adjusted base for state operations.

**Senate:** Reduce the Circuit Court's total GPR state operations adjusted base by 1% annually, rather than 5% annually. Restore \$2,153,000 annually to the Court's GPR sum sufficient state operations appropriation.

**Conference Committee/Legislature:** Reduce the Circuit Court's total GPR state operations adjusted base by 4% annually. Restore \$538,300 annually to the Court's GPR sum sufficient state operations appropriation.

### 3. COURT INTERPRETERS [LFB Paper 275]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	\$100,000	\$105,600	\$250,600	\$456,200

**Governor:** Provide \$50,000 annually for state reimbursement to counties of court interpreter costs. Under current law, counties have the responsibility for hiring and paying interpreters for court proceedings, with the state providing reimbursement to counties of \$35 per half-day of interpreter services.

In addition, make the following statutory changes concerning court interpreters:

a. *Right to a Qualified Interpreter.* Create a new standard of "limited English proficiency" for courts and agencies to use when determining whether an individual may potentially have a right to a qualified interpreter. Define "limited English proficiency" as: (1) the inability, because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding; or (2) the inability, due to a speech impairment, hearing loss, deafness, deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding. Define a "qualified interpreter" to mean a person who is able to do all of the following: (1) readily communicate with a person who has limited English proficiency; (2) orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding; and (3) readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary. Under current law, courts and government agencies holding administrative contested case proceedings use the following standard when determining whether an individual may potentially have a right to a qualified interpreter: does an individual have a language difficulty because of the inability to speak or understand English, a hearing impairment, is unable to speak or have a speech defect that is sufficient to prevent the individual from communicating with his or her attorney, reasonably understanding English testimony or reasonably being understood in English?

Modify current law provisions concerning agency use of interpreters for individuals who have a substantial interest in the proceeding and payment of interpreter expenses to refer to "qualified interpreters."

b. *Use of Qualified Interpreters by Clerks of Circuit Courts.* Permit clerks of circuit courts to provide qualified interpreters to respond to requests for assistance regarding a legal proceeding by individuals with limited English proficiency.

c. *Use of Qualified Interpreters Outside the Courtroom.* With court approval, permit qualified interpreters to provide interpreter services outside the courtroom that are related to the court proceedings, including court-ordered psychiatric or medical exams or mediation.

d. *Waiver of Right to a Qualified Interpreter.* Provide that a person with limited English proficiency may waive the right to a qualified interpreter at any point in a court proceeding if the court advises the person of the nature and effect of the waiver and determines on the record that the waiver has been made knowingly, intelligently, and voluntarily. Provide that at any point in a court proceeding, for good cause, a person may be allowed to retract his or her waiver and request that a qualified interpreter be appointed. Under current law, any courtroom waiver of the right to an interpreter is effective only if made voluntarily in person, in open court and on the record.

e. *Removal of a Qualified Interpreter for Good Cause.* Permit any party to a court proceeding to object to the use of any qualified interpreter for good cause. Permit a court to remove a qualified interpreter for good cause.

f. *Oath of a Qualified Interpreter.* Require every qualified interpreter, before commencing his or her duties in a court proceeding to take a sworn oath that he or she will make a true and impartial interpretation. Permit the Supreme Court to approve a uniform oath for qualified interpreters.

g. *Supreme Court Oversight of Qualified Interpreters.* Require the Supreme Court to establish the procedures and policies for the recruitment, training and testing of persons to act as qualified interpreters in a court proceeding and for the coordination, discipline and retention of those interpreters.

h. *Court Interpreter Training.* Request the Supreme Court to cooperate with the Technical College System Board in the development and implementation of a curriculum and testing program for training qualified interpreters.

i. *Delay in Appointing a Qualified Interpreter and Court Time Limitations.* Provide that delay resulting from the need to locate and appoint a qualified interpreter could constitute good cause for a court to stop the running of time limitations in court proceedings.

j. *Delays, Continuances and Extensions.* Provide that any delay resulting from the need to appoint a qualified interpreter would be excluded in determining whether time requirements

under the Children's Code (Chapter 48) or the Juvenile Justice Code (Chapter 938) are met, including the time requirement that a court must issue an order within three days after an initial appearance as to whether the requirement for parental consent to a minor's proposed abortion will be waived.

k. *Interpreter Privileged Communication.* Under current law, interpreters for persons with language difficulties or hearing or speaking impairments may be prevented from disclosing privileged communications by any person who has a right to claim the privilege. The interpreter may claim the privilege, but only on behalf of the person who has the right. Add interpreters for persons with limited English proficiency to these provisions.

l. *Initial Applicability and Effective Date.* Provide that these changes would take effect and would first apply to interpreters used or appointed on July 1, 2002.

**Joint Finance:** Provide \$105,600 in 2002-03 to increase the state reimbursement rate to counties for court interpreters from \$35 per half day to \$20 per hour effective July 1, 2002. In addition, modify the proposed statutory changes as follows: (a) delete the definition of "qualified interpreter;" (b) delete the requirement for the Supreme Court to establish procedures and policies for the recruitment, training and testing of persons to act as qualified interpreters in a court proceeding and for the coordination, discipline and retention of those interpreters and the request for the Supreme Court to cooperate with the Technical College System Board in the development and implementation of a curriculum and testing program for training qualified interpreters; and (c) request the Legislative Council to study a potential definition for "qualified interpreter" for appointments in court proceedings and contested administrative case proceedings and, if conducted, report its conclusions to the Legislature.

**Senate:** Delete the Joint Finance provision. (The request that the Legislative Council study a potential definition for "qualified interpreter" in court proceedings and contested administrative case proceedings however, was inadvertently not deleted.) Instead, make the following changes to the Governor's provisions concerning court interpreters: (a) provide \$356,200 GPR in 2002-03 to increase the reimbursement rate to counties for interpreter services from \$35 per half day to \$30 for the first hour and \$15 for each additional 0.5 hour for qualified interpreters and \$40 for the first hour and \$20 for each additional 0.5 hour for certified interpreters; and (b) make the following modifications to the statutory provisions concerning court interpreters:

(1) Delete the request to the Supreme Court to cooperate with the technical college system board in the development and implementation of a curriculum and testing program for training qualified interpreters.

(2) Delete the application of the "limited English proficiency" standard in municipal court and state agency administrative contested case proceedings.

(3) Provide no definition of "qualified interpreter" in municipal court and state agency administrative contested case proceedings.

(4) Provide that the Director of State Courts reimburse counties up to four times each year for court interpreter costs. Require counties to submit, on forms provided by the Director of State Courts, an accounting of the amount paid for expenses related to court interpreters that are eligible for reimbursement by the state. Require the form to include expenses for the preceding three-month period and be submitted within 90 days after that three-month period ended. Do not permit the Director of State Courts to reimburse a county for any expenses related to court interpreters that would be submitted after the 90-day period had ended.

(5) Provide that the additional uses of qualified interpreters permitted by the bill qualify for state reimbursement.

(6) Provide that a court may appoint multiple qualified court interpreters and that their costs are reimbursable by the state to the extent provided otherwise, so long as the appointments are necessary.

(7) Provide that the following parties would qualify, if the other conditions were met, for a qualified interpreter: (a) a party in interest; (b) a witness, while testifying in a court proceeding; (c) an alleged victim; (d) a parent or legal guardian of a minor party in interest or the legal guardian of a party in interest; and (e) another party affected by the action, as deemed necessary and appropriate by the court.

(8) Provide that the reimbursement fee of interpreters attending before the Court of Appeals or Supreme Court would be determined by the Supreme Court.

(9) Specifically require the appointment of qualified interpreters for persons with limited English proficiency in the context of circuit and appellate courts to permit their service on a jury panel.

(10) Delete the current law provision that authorizes a court at its discretion to appoint an interpreter for indigent participants at public expense in actions and proceedings other than those mandated by statute (a party or witness, including children and parents in both children in need of protective services [CHIPS] actions and juvenile offenses, and in criminal, delinquency, protective service, Chapter 48 [Children's Code] and Chapter 51 [Mental Health Act] proceedings).

(11) Provide that these provisions would take effect and first apply to interpreters used or appointed on July 1, 2002.

**Assembly/Legislature:** Adopt the Senate provisions with the following modification: retain the current law provision that authorizes a court at its discretion to appoint an interpreter for indigent participants at public expense in actions and proceedings other than those

mandated by statute (a party or witness, including children and parents in both children in need of protective services [CHIPS] actions and juvenile offenses, and in criminal, delinquency, protective service, Chapter 48 [Children's Code] and Chapter 51 [Mental Health Act] proceedings). While currently authorized in the statutes, courts have infrequently appointed interpreters in discretionary cases.

[See "Supreme Court" for additional court interpreter changes.]

[Act 16 Sections: 926m, 1580, 1587, 3781d, 3836dd thru 3836g, 3852d thru 3860m, 3872, 3890, 9132(3z), 9309(1n) and 9409(1n)]

#### **4. PROBATE, GUARDIANSHIP AND CONSERVATORSHIP FEE INCREASES**

GPR-REV	\$5,814,000
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**Senate/Legislature:** Increase estimated GPR revenues by \$2,898,000 in 2001-02 and \$2,916,000 in 2002-03 by increasing the fees for filing a petition for the estate of a deceased, for guardianship of an estate and for an application for conservatorship, from \$10 to \$20 if the value of the property subject to administration, less encumbrances, liens or charges is \$10,000 or less and, if more than \$10,000, from 0.1% to 0.2% of the value of the property subject to administration, less encumbrances, liens or charges. Specify that two-thirds of the revenue from probate fees would be paid to the state treasurer on a quarterly basis to be deposited into the general fund. The remaining revenue would be retained by the county. Currently, the funding split between counties and the state is 50% each. These changes would first apply to petitions filed on the effective date of the bill.

[Act 16 Sections: 3835g thru 3835i and 9309(6d)]

#### **5. GPR-EARNED REESTIMATE [LFB Paper 276]**

GPR-REV	\$1,000,000
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**Joint Finance/Legislature:** Reestimate the revenues to be received by the Court and deposited to the general fund by \$500,000 annually. Based on actual 1999-00 and estimated 2000-01 GPR-Earned revenues for the Court, it is estimated that GPR-Earned revenues for the Court will be \$27,000,000 annually in 2001-03.

#### **6. HARASSMENT RESTRAINING ORDERS AND INJUNCTIONS**

**Joint Finance/Legislature:** Allow a judge or court commissioner to issue a temporary restraining order or grant an injunction ordering a harasser to avoid the victim's residence, or any premises temporarily occupied by the victim, or both. If the victim and the harasser are not married, the harasser owns the premises where the victim resides and the victim has no legal interest in the premises, in lieu of ordering the harasser to avoid the victim's residence, provide that the judge or court commissioner may order the harasser to avoid the premises for a

reasonable time until the victim relocates and shall order the harasser to avoid the new residence for the duration of the order. These provisions would first apply to petitions filed on the effective date of the bill. Under current law, a judge or court commissioner may issue a temporary restraining order or injunction ordering a person to cease or avoid the harassment of another person if the victim files a petition alleging that harassment has occurred and the judge or court commissioner finds reasonable grounds to believe that harassment has occurred.

[Act 16 Sections: 3830d thru 3830j and 9309(5mk)]

## **7. LEGAL CUSTODY AND PHYSICAL PLACEMENT STUDY SERVICES**

**Joint Finance/Legislature:** Increase the fee charged for legal custody and physical placement study services from \$300 to \$500, to first apply to studies ordered on the effective date of the bill. Currently, a county or two or more contiguous counties are statutorily required to provide legal custody and physical placement study services in family court actions. These studies may be ordered whenever legal custody or physical placement of a minor child is contested and mediation is not used or does not result in agreement between the parties, or at any other time the court considers it appropriate. The county determines when and how to collect the fee for the study, and the fee is deposited into a separate county account for the exclusive purpose of providing mediation services and studies in family court actions.

**Veto by Governor [D-1]:** Delete provision.

[Act 16 Vetoes Sections: 3832k and 9309(4w)]

## **8. CIVIL ACTION FOR DOMESTIC ABUSE OR SEXUAL ASSAULT**

**Assembly/Legislature:** Provide that any person, who suffers damage as the result of intentional conduct that constitutes sexual assault or as the result of domestic abuse, has a cause of action against the person who caused the damage. In addition, provide that: (a) the burden of proof is with the person who suffers damage or loss to prove his or her case by a preponderance of the credible evidence; (b) if the plaintiff prevails he or she may recover treble damages and all costs of investigation and litigation that were reasonably incurred; and (c) a person may bring such an action regardless of whether there has been a criminal action related to the alleged domestic abuse or sexual assault and regardless of the outcome of any such criminal action.

**Veto by Governor [D-3]:** Delete provision.

[Act Vetoes 16 Section: 3871x]

## **9. CIVIL ACTION FOR SEXUAL ASSAULT OF A CHILD**

**Joint Finance:** Provide that an action to recover damages for injury caused by sexual assault of a child, engaging in repeated acts of sexual assault of the same child, incest with a child or sexual assault of a student by a school instructional staff person must be commenced within five years after the plaintiff discovers the fact and the probable cause, or with the exercise of reasonable diligence should have discovered the fact and the probable cause, of the injury, whichever occurs first. Under current law, such actions must be commenced within two years. Provide that this would not shorten the period to commence an action for persons who are under the age of 18 years or are mentally ill.

**Assembly:** Modify the Joint Committee on Finance provision in regards to civil actions for sexual assault of a child, to provide that the time limits for bringing such actions would only apply to such actions brought against the person who committed the sexual assault of a child.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 16 Sections: 3862x and 9309(5g)]

## **10. COURT REPORTER TRANSCRIPT FEES**

**Joint Finance/Legislature:** Increase transcript fees charged parties requesting a transcript, excluding the state or any political subdivision, from \$1.75 per 25-line page for the original and 60¢ per 25-line page for each copy to \$2.25 and 50¢ respectively. Further, provide that for expedited transcripts, an additional fee of 75¢ per 25-line page for the original and 25¢ per 25-line page for each copy shall be charged to the party requesting the transcript. Define "expedited transcripts" as those transcripts that are requested by a party to be prepared within seven days but are not required to be prepared within seven days by Supreme Court rule or by statute.

[Act 16 Sections: 3780g, 3836r, 3836s and 9309(6c)]

## **11. TIME PERIOD TO ANSWER COMPLAINTS IN CIRCUIT COURT CIVIL ACTIONS**

**Assembly/Legislature:** Specify that a defendant must respond within 20 days after a civil action summons has been served related to foreclosure or enforcement of a lien or security interest. Modify the statutorily-designated forms related to civil action summons to reflect the modification in the response time period. Modify the time period related to default judgment for actions processed through the Commissioner of Insurance or the Department of Financial Institutions to specify that in a foreclosure or enforcement of a lien or security interest, the plaintiff or the complainant is not entitled to a judgment by default until the expiration of 20 days after the date of mailing of a summons. Provide that these provisions would first apply to actions commenced on the effective date of the bill.

Under current law, defendants have 45 days to respond to civil action summons. Likewise, current law establishes a 45-day period during which plaintiffs or complainants are required to wait before being entitled to a judgment by default in insurance matters. Under the provision, the 45-day time period would remain in effect for other civil actions that are not related to foreclosure or enforcement of a lien or security interest.

[Act 16 Sections: 3737m, 3828g thru 3828jv and 9309(8z)]

## **12. ADMITTING HEALTH CARE RECORDS INTO EVIDENCE IN A TRIAL OR PROCEEDING**

**Senate/Legislature:** Reduce, from 40 days to 20 days, the number of days before a trial or hearing by which time a party must either serve health care records on the other parties or notify the other parties of the location where the health care records may be inspected or photocopied, in order for the health care records to be admissible into evidence at a trial or hearing without testimony by the custodian of the records or other qualified witness.

Under current law, hearsay generally may not be admitted into evidence in a trial or hearing. Hearsay is a statement, including a written record, that is made other than while a person is testifying at a trial or hearing that is offered at a trial or hearing for the purpose of proving the truth of the matter asserted.

Under current law, an exception to the hearsay prohibition generally permits a party to introduce records of regularly conducted activities into evidence if the records were made at or near of the time the underlying acts, events, conditions, opinions or diagnoses occurred and if the custodian of the records or other qualified witness testifies as to the authenticity of the records. Under current law, health care provider records are admissible even without such testimony if the party who intends to offer such records into evidence at a trial or hearing does one of the following at least 40 days before the trial or hearing: (a) serves upon all appearing parties an accurate, legible and complete duplicate of the health care provider records for a stated period certified by the record custodian; or (b) notifies all appearing parties that an accurate, legible and complete duplicate of the health care provider records for a stated period certified by the record custodian is available for inspection and copying during reasonable business hours at a specified location within the county in which the trial or hearing will be held.

**Veto by Governor [D-2]:** Delete provision.

[Act 16 Vetoed Sections: 3872v and 9309(7p)]

### 13. DOMESTIC ABUSE RESTITUTION

**Assembly/Legislature:** Specify that when imposing sentence or ordering probation for a crime involving conduct that constitutes domestic abuse for which the defendant was convicted or that was considered at sentencing, a court, in addition to any other penalty authorized by law, is required to order the defendant to make full or partial restitution to any victim of a crime or, if the victim is deceased, to his or her estate, unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim and describes the undue hardship on the record.

As under current law, domestic abuse is defined as either:

a. Any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult against his or her adult former spouse or by an adult against an adult with whom the person has a child in common: (1) intentional infliction of physical pain, physical injury or illness; (2) intentional impairment of physical condition; (3) first-, second- or third-degree sexual assault; or (4) a threat to engage in any of these actions.

b. Any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common: (1) intentional infliction of physical pain, physical injury or illness; (2) intentional impairment of physical condition; (3) first-, second- or third-degree sexual assault; or (4) a physical act that may cause the other person reasonably to fear imminent engagement in the conduct of any of these actions.

Under current law restitution provisions, when imposing sentence or ordering probation for any crime for which a defendant was convicted, the court, in addition to any other penalty authorized by law, is required to order the defendant to make full or partial restitution to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. Under current law, a restitution order is a condition of probation, extended supervision or parole served by the defendant for a crime for which the defendant was convicted. After the termination of probation, extended supervision or parole, or if the defendant is not placed on probation, extended supervision or parole, a restitution order is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under contempt of court provisions.

[Act 16 Section: 4028b]

#### **14. JUDICIAL CIRCUIT COURT SUBDISTRICTS IN MILWAUKEE COUNTY**

**Senate:** Provide that the 1<sup>st</sup> judicial administrative district, representing the 47 circuit court branches in Milwaukee County, be split into two judicial subdistricts "A" and "B". Require that, except in these subdistricts, circuit court judges be elected by the qualified electors of the circuit on a countywide basis and that a circuit court judge must reside in the circuit in which he or she is elected. Modify the current statutory requirement that a primary must be held in counties having a population of 500,000 or more whenever there are more than twice the number of candidates to be elected to any judicial office within the county to require that a primary must be held whenever there are more than twice the number of candidates to be elected to the office of circuit court judge from any one judicial subdistrict.

Require the circuit court judges for branches 1 to 24 in Milwaukee County to be elected from a new judicial subdistrict "A", composed of whole county board of supervisor districts. Require the circuit court judges for branches 25 to 47 in Milwaukee County to be elected from a new judicial subdistrict "B", composed of whole county board of supervisor districts. Provide that a circuit court judge must reside in the judicial subdistrict from which he or she is elected.

Require, within 30 days after Milwaukee County adopts a final plan adjusting its board of supervisor districts as a result of the 2000 federal decennial census of population, the Milwaukee County board of supervisors, to the extent possible, to adjust the designation of the supervisory districts that the judicial subdistricts are composed of, so that substantially the same territory exists in judicial subdistricts "A" and "B" as existed before the supervisory districts were adjusted. Provide that the adjusted subdistricts would apply to the election of a circuit court judge at the spring election following the adjustment.

Provide that prior to the adjustment of board of supervisor districts outlined above, the initial boundary of judicial subdistrict "A" would be the boundary that encloses Milwaukee County supervisory districts 1 to 7, 9, 10, 13, 15, 18 and 25 as of January 1, 2001. The initial boundary of judicial subdistrict "B" would be the boundary that encloses Milwaukee County supervisory districts 8, 11, 12, 14, 16, 17, 19, and 20 to 24 as of January 1, 2001.

Provide that if Milwaukee County adopts a final plan adjusting its board of supervisor districts as a result of the 2000 federal decennial census of population before the effective date of the budget bill, the Milwaukee County board of supervisors shall, by November 1, 2001, designate the supervisory districts that the judicial subdistricts are composed of so that, to the extent possible, substantially the same territory exists in judicial subdistrict "A" and "B" as would otherwise exist in judicial subdistricts "A" and "B" under the provisions outlined above.

Provide that these provisions first apply to the election of circuit court judges at the 2002 spring election.

**Conference Committee/Legislature:** Delete provision.

## **15. MARRIAGE LICENSE FEE**

**Assembly:** Make the following changes to the marriage license fee: (a) reduce the minimum amount of the fee from \$49.50 to \$25 and retain the current law requirement that \$25 be paid into the state treasury; (b) eliminate the requirement that \$24.50 of the minimum fee is retained by the county; (c) eliminate the requirement that counties use \$20 of the \$24.50 for expenses incurred for family court counseling services; (d) allow county boards to increase the marriage license fee by up to \$40, to be retained by the county; (e) eliminate the standard notary fee of 50 cents for each marriage license granted, which may be retained by the county clerk if operating on a fee or part fee basis, but which otherwise is retained by the county; and (f) provide that counties may, but are not required to, use funds received under the marriage license fee for expenses incurred for family court counseling services. These changes would first apply to marriage license fees collected on the effective date of the bill.

Create a fee of \$100 to be charged for the first mediation session conducted upon referral to the county director of family court counseling services relating to legal custody or physical placement, to first apply to mediation services for which referrals are made on the effective date of the bill. Require counties to reduce or eliminate the fee in accordance with the parties' ability to pay. Under current law, there is no charge for this first mediation session.

**Conference Committee/Legislature:** Delete provision.

## **16. ELIGIBILITY OF RESERVE JUDGES**

**Assembly:** Prohibit a person from serving as a reserve judge if he or she was defeated at the most recent time he or she sought election to a circuit court judgeship. Under current law, the Supreme Court Chief Justice may appoint any of the following as a reserve judge: (a) a person who has served a total of six or more years as a Supreme Court justice, a Court of Appeals judge or a circuit court judge; or (b) a person who was eligible to serve as a reserve judge before May 1, 1992.

**Conference Committee/Legislature:** Delete provision.

## **17. JUDGE SUBSTITUTION IN CRIMINAL CASES**

**Assembly:** Eliminate the right of a criminal defendant to substitute a different judge for the judge currently assigned to his or her case, to first apply to actions commenced on the effective date of the bill. Under current law, a criminal defendant has the right to one substitution of a judge for the judge currently assigned to his or her case at different points in the criminal process if the request is made within the proper time and in the proper form. Upon the proper filing of a request for substitution, the judge whose substitution has been requested

has no authority to act further in the action except to conduct the initial appearance, accept pleas and set bail.

**Conference Committee/Legislature:** Delete provision.

## **18. PERSONAL REPRESENTATIVE IN INFORMAL ADMINISTRATION**

**Senate:** Provide that when appointing a personal representative in the informal administration of an estate when no personal representative is named in a will or the named personal representative fails to qualify, the probate registrar may appoint as personal representative a bank or trust that is entitled to exercise fiduciary powers in the state and that has the consent of all interested persons, other than creditors of the deceased (as under current law) or a natural person who has the consent of all interested parties, other than creditors of the deceased, subject to qualification and acceptance. Provide that these provisions would first apply to informal administrations commenced as a result of deaths occurring on the effective date of the bill.

Under current law, if no personal representative is named or if the named personal representative fails to qualify, a natural person who has the consent of all interested parties, other than creditors of the deceased, may be appointed only if he or she is an heir, a beneficiary or an attorney admitted to practice law in this state.

**Conference Committee/Legislature:** Delete provision.